

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:17-cv-00974-TJK**

CENTER FOR BIOLOGICAL DIVERSITY v. U.S.
DEPARTMENT OF THE INTERIOR et al
Assigned to: Judge Timothy J. Kelly
Cause: 05:552 Freedom of Information Act

Date Filed: 05/23/2017
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

**CENTER FOR BIOLOGICAL
DIVERSITY**

represented by **Margaret E. Townsend**
CENTER FOR BIOLOGICAL
DIVERSITY
P.O. Box 11374
Portland, OR 97211
(971) 717-6409
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amy R. Atwood
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V.

Defendant

**U.S. DEPARTMENT OF THE
INTERIOR**

represented by **Joshua M. Kolsky**
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Paul Cirino
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Defendant

represented by

**U.S. ENVIRONMENTAL
PROTECTION AGENCY**

Joshua M. Kolsky
(See above for address)
TERMINATED: 12/21/2018
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Paul Cirino
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

U.S. DEPARTMENT OF ENERGY

represented by **Joshua M. Kolsky**
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TERMINATED: 12/21/2018
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Paul Cirino
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Defendant

U.S. DEPARTMENT OF STATE

represented by **Joshua M. Kolsky**
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TERMINATED: 12/21/2018
LEAD ATTORNEY
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Paul Cirino
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ATTORNEY TO BE NOTICED

Defendant

**U.S. NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION**

represented by **Joshua M. Kolsky**
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TERMINATED: 12/21/2018
LEAD ATTORNEY
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Paul Cirino
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Defendant

**U.S. DEPARTMENT OF
COMMERCE**

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LEAD ATTORNEY
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Paul Cirino
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ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
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| 05/23/2017 | <u>1</u> | COMPLAINT against U.S. DEPARTMENT OF ENERGY, U.S. DEPARTMENT OF STATE, U.S. DEPARTMENT OF THE INTERIOR, U.S. ENVIRONMENTAL PROTECTION AGENCY (Filing fee \$ 400 receipt number 0090-4961916) filed by CENTER FOR BIOLOGICAL DIVERSITY. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons, # <u>3</u> Summons, # <u>4</u> Summons, # <u>5</u> Summons, # <u>6</u> Summons, # <u>7</u> Summons)(Atwood, Amy) (Entered: 05/23/2017) |
| 05/23/2017 | <u>2</u> | Corporate Disclosure Statement by CENTER FOR BIOLOGICAL DIVERSITY. (Atwood, Amy) (Entered: 05/23/2017) |
| 05/23/2017 | | Case Assigned to Judge Ketanji Brown Jackson. (jd) (Entered: 05/23/2017) |
| 05/23/2017 | <u>3</u> | SUMMONS (6) Issued Electronically as to U.S. DEPARTMENT OF ENERGY, U.S. DEPARTMENT OF STATE, U.S. DEPARTMENT OF THE INTERIOR, U.S. ENVIRONMENTAL PROTECTION AGENCY, U.S. Attorney and U.S. Attorney General (Attachment: # <u>1</u> Consent Forms)(jd) (Entered: 05/23/2017) |
| 05/23/2017 | <u>4</u> | GENERAL ORDER AND GUIDELINES FOR CIVIL CASES BEFORE JUDGE KETANJI BROWN JACKSON. The Court will hold the parties and counsel responsible for following these directives, and parties and counsel should pay particular attention to the Courts instructions for briefing motions and filing exhibits. Failure to adhere to this Order may, when appropriate, result the imposition of sanctions and/or sua sponte denial of non-conforming motions. Signed by Judge Ketanji Brown Jackson on 5/23/2017. (lckbj1) (Entered: 05/23/2017) |
| 06/29/2017 | <u>5</u> | RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 6/6/2017. Answer due for ALL FEDERAL DEFENDANTS by 7/6/2017. (Atwood, Amy) (Entered: 06/29/2017) |
| 06/29/2017 | <u>6</u> | RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 6/2/2017. (Atwood, Amy) (Entered: 06/29/2017) |
| 06/29/2017 | <u>7</u> | RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. DEPARTMENT OF ENERGY served on 6/1/2017; U.S. DEPARTMENT OF STATE served on 6/19/2017; U.S. DEPARTMENT OF THE INTERIOR served on 6/2/2017; U.S. ENVIRONMENTAL PROTECTION AGENCY served on 6/1/2017 (Atwood, Amy) (Entered: 06/29/2017) |
| 06/29/2017 | <u>8</u> | NOTICE of Appearance by Joshua M. Kolsky on behalf of U.S. DEPARTMENT OF ENERGY, U.S. DEPARTMENT OF STATE, U.S. DEPARTMENT OF THE INTERIOR, U.S. ENVIRONMENTAL PROTECTION AGENCY (Kolsky, Joshua) (Entered: 06/29/2017) |
| 06/29/2017 | <u>9</u> | Unopposed MOTION for Extension of Time to File Answer re <u>1</u> Complaint, by U.S. DEPARTMENT OF ENERGY, U.S. DEPARTMENT OF STATE, U.S. DEPARTMENT OF THE INTERIOR, U.S. ENVIRONMENTAL PROTECTION AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Kolsky, Joshua) (Entered: 06/29/2017) |
| 07/03/2017 | | MINUTE ORDER granting, for good cause shown, <u>9</u> Unopposed Motion for Extension of Time to Answer. Defendants shall answer or otherwise respond to the complaint on or before 7/27/2017. Signed by Judge Ketanji Brown Jackson on 07/03/2017. (lckbj1) (Entered: 07/03/2017) |
| 07/27/2017 | <u>10</u> | ANSWER to Complaint by U.S. DEPARTMENT OF ENERGY, U.S. DEPARTMENT OF STATE, U.S. DEPARTMENT OF THE INTERIOR, U.S. ENVIRONMENTAL PROTECTION AGENCY.(Kolsky, Joshua) (Entered: 07/27/2017) |
| 07/28/2017 | | MINUTE ORDER. Before the Court in this FOIA case are a complaint and an answer. It is hereby ORDERED that the parties shall promptly confer and file a joint proposed schedule for briefing or disclosure, on or before 8/11/2017. Signed by Judge Ketanji Brown Jackson on 07/28/2017. (lckbj1) (Entered: 07/28/2017) |
| 08/11/2017 | <u>11</u> | Joint PROPOSED BRIEFING SCHEDULE <i>Joint Proposed Schedule</i> by CENTER FOR BIOLOGICAL DIVERSITY. (Atwood, Amy) Modified event title on 8/14/2017 |

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| | | (znmw). (Entered: 08/11/2017) |
| 08/11/2017 | <u>12</u> | NOTICE of Appearance by Margaret E. Townsend on behalf of CENTER FOR BIOLOGICAL DIVERSITY (Townsend, Margaret) (Entered: 08/11/2017) |
| 08/14/2017 | | MINUTE ORDER. Based on the representations in the parties' <u>11</u> Joint Status Report, it is hereby ORDERED that Plaintiff shall file any amended complaint on or before 8/17/2017, and shall promptly serve any such amended complaint. Signed by Judge Ketanji Brown Jackson on 08/14/2017. (lckbj1) (Entered: 08/14/2017) |
| 08/14/2017 | | Set/Reset Deadlines: Amended Complaint due by 8/17/2017. (hs) (Entered: 08/14/2017) |
| 08/16/2017 | <u>13</u> | AMENDED COMPLAINT <i>First Amended Complaint</i> against U.S. DEPARTMENT OF ENERGY, U.S. DEPARTMENT OF STATE, U.S. DEPARTMENT OF THE INTERIOR, U.S. ENVIRONMENTAL PROTECTION AGENCY, U.S. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION filed by CENTER FOR BIOLOGICAL DIVERSITY. (Attachments: # <u>1</u> Redline Comparison to Complaint)(Townsend, Margaret) Modified to add defendant on 8/17/2017 (znmw). (Entered: 08/16/2017) |
| 08/17/2017 | <u>14</u> | REQUEST FOR SUMMONS TO ISSUE <i>for the U.S. Department of Commerce, U.S. National Oceanic and Atmospheric Administration, U.S. Attorney, and U.S. Attorney General</i> re <u>13</u> Amended Complaint, filed by CENTER FOR BIOLOGICAL DIVERSITY. Related document: <u>13</u> Amended Complaint, filed by CENTER FOR BIOLOGICAL DIVERSITY.(Townsend, Margaret) (Entered: 08/17/2017) |
| 08/18/2017 | <u>15</u> | SUMMONS (4) Issued Electronically as to U.S. DEPARTMENT OF COMMERCE, U.S. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. Attorney and U.S. Attorney General (znmw) (Entered: 08/18/2017) |
| 08/29/2017 | <u>16</u> | Consent MOTION for Extension of Time to File Answer re <u>13</u> Amended Complaint, by U.S. DEPARTMENT OF ENERGY, U.S. DEPARTMENT OF STATE, U.S. DEPARTMENT OF THE INTERIOR, U.S. ENVIRONMENTAL PROTECTION AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Kolsky, Joshua) (Entered: 08/29/2017) |
| 08/30/2017 | | MINUTE ORDER granting <u>16</u> Motion for Extension of Time to Answer. It is hereby ORDERED that the obligation of Departments of State, Energy, and the Interior and the EPA to answer or otherwise respond to the complaint is STAYED until further order of this Court, and pending service of process on NOAA and the Department of Commerce. It is FURTHER ORDERED that Plaintiff shall promptly file returns of service once it effects service on NOAA and the Department of Commerce. Signed by Judge Ketanji Brown Jackson on 08/30/2017. (lckbj1) (Entered: 08/30/2017) |
| 09/07/2017 | <u>17</u> | RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 8/29/2017. Answer due for ALL FEDERAL DEFENDANTS by 9/28/2017. (Atwood, Amy) (Entered: 09/07/2017) |
| 09/07/2017 | <u>18</u> | RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 8/29/2017. (Atwood, Amy) (Entered: 09/07/2017) |
| 09/07/2017 | <u>19</u> | RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. DEPARTMENT OF COMMERCE served on 8/28/2017; U.S. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION served on 9/1/2017 (Atwood, Amy) (Entered: 09/07/2017) |
| 09/08/2017 | | MINUTE ORDER. It is hereby ORDERED that Defendants shall answer or otherwise respond to the Amended Complaint on or before 9/28/2017. Signed by Judge Ketanji Brown Jackson on 09/08/2017. (lckbj1) (Entered: 09/08/2017) |
| 09/15/2017 | | Case directly reassigned to Judge Timothy J. Kelly. Judge Ketanji Brown Jackson is no longer assigned to the case. (ztnr) (Entered: 09/15/2017) |
| 09/28/2017 | <u>20</u> | ANSWER to <u>13</u> Amended Complaint, by U.S. DEPARTMENT OF COMMERCE, U.S. DEPARTMENT OF ENERGY, U.S. DEPARTMENT OF STATE, U.S. |

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| | | DEPARTMENT OF THE INTERIOR, U.S. ENVIRONMENTAL PROTECTION AGENCY, U.S. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION. Related document: <u>13</u> Amended Complaint, filed by CENTER FOR BIOLOGICAL DIVERSITY.(Kolsky, Joshua) (Entered: 09/28/2017) |
| 10/12/2017 | | MINUTE ORDER: Before the Court in this FOIA case are an amended complaint and an answer. The requirements of LCvR 16.3 and Rule 26(f) of the Federal Rules of Civil Procedure appear to be inapplicable. It is hereby ORDERED that the parties shall meet and confer and propose a schedule for proceeding in this matter. The schedule shall address the status of Plaintiff's FOIA request, the anticipated number of documents responsive to Plaintiff's FOIA request, the anticipated date(s) for release of the documents requested by Plaintiff, whether a motion for an Open America stay is likely in this case, whether a Vaughn index will be required in this case, whether and when either party anticipates filing a dispositive motion, and any other pertinent issues. The parties shall file a joint status report that addresses these issues and that contains a proposed schedule and proposed order not later than 10/26/17. Signed by Judge Timothy J. Kelly on 10/12/2017. (lctjk1) (Entered: 10/12/2017) |
| 10/13/2017 | | Set/Reset Deadlines: Joint Status Report due by 10/26/2017. (kh) (Entered: 10/13/2017) |
| 10/26/2017 | <u>21</u> | Joint STATUS REPORT by U.S. DEPARTMENT OF COMMERCE, U.S. DEPARTMENT OF ENERGY, U.S. DEPARTMENT OF STATE, U.S. DEPARTMENT OF THE INTERIOR, U.S. ENVIRONMENTAL PROTECTION AGENCY, U.S. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION. (Attachments: # <u>1</u> Text of Proposed Order)(Kolsky, Joshua) (Entered: 10/26/2017) |
| 10/30/2017 | | MINUTE ORDER: In light of the <u>21</u> Joint Status Report filed by the parties on October 26, 2017, it is hereby ORDERED that Defendant U.S. Department of the Interior shall make an initial production of non-exempt, responsive records on October 31, 2017, and make additional productions every thirty days until the production is complete. Defendant U.S. Department of State shall make an initial production of non-exempt, responsive records on November 15, 2017, and make additional productions every thirty days until the production is complete. The parties shall file a joint status report, including, if necessary, a proposed briefing schedule, by November 27, 2017. Signed by Judge Timothy J. Kelly on 10/30/2017. (lctjk1) (Entered: 10/30/2017) |
| 10/30/2017 | | Set/Reset Deadlines: Status Report due by 11/27/2017. (tj) (Entered: 10/30/2017) |
| 11/27/2017 | <u>22</u> | Joint STATUS REPORT by U.S. DEPARTMENT OF COMMERCE, U.S. DEPARTMENT OF ENERGY, U.S. DEPARTMENT OF STATE, U.S. DEPARTMENT OF THE INTERIOR, U.S. ENVIRONMENTAL PROTECTION AGENCY, U.S. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION. (Kolsky, Joshua) (Entered: 11/27/2017) |
| 11/28/2017 | | MINUTE ORDER: In light of the parties' <u>22</u> Joint Status Report, it is hereby ORDERED that the parties shall file a further joint status report by December 27, 2017. Signed by Judge Timothy J. Kelly on 11/28/2017. (lctjk1) (Entered: 11/28/2017) |
| 12/27/2017 | <u>23</u> | Joint STATUS REPORT by U.S. DEPARTMENT OF COMMERCE, U.S. DEPARTMENT OF ENERGY, U.S. DEPARTMENT OF STATE, U.S. DEPARTMENT OF THE INTERIOR, U.S. ENVIRONMENTAL PROTECTION AGENCY, U.S. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION. (Kolsky, Joshua) (Entered: 12/27/2017) |
| 01/11/2018 | | MINUTE ORDER: In light of the parties' <u>23</u> Joint Status Report, it is hereby ORDERED that the parties shall file a Joint Status Report on February 26, 2018, and every sixty days thereafter until further order of the Court. Signed by Judge Timothy J. Kelly on 1/11/2018. (lctjk1) (Entered: 01/11/2018) |
| 01/11/2018 | | Set/Reset Deadlines: Joint Status Report due by 2/26/2018 and every sixty (60) days thereafter. (kh) (Entered: 01/11/2018) |
| 02/26/2018 | <u>24</u> | Joint STATUS REPORT by CENTER FOR BIOLOGICAL DIVERSITY. (Townsend, Margaret) (Entered: 02/26/2018) |

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| 04/26/2018 | <u>25</u> | Joint STATUS REPORT by U.S. DEPARTMENT OF COMMERCE, U.S. DEPARTMENT OF ENERGY, U.S. DEPARTMENT OF STATE, U.S. DEPARTMENT OF THE INTERIOR, U.S. ENVIRONMENTAL PROTECTION AGENCY, U.S. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION. (Kolsky, Joshua) (Entered: 04/26/2018) |
| 06/26/2018 | <u>26</u> | Joint STATUS REPORT by U.S. DEPARTMENT OF COMMERCE, U.S. DEPARTMENT OF ENERGY, U.S. DEPARTMENT OF STATE, U.S. DEPARTMENT OF THE INTERIOR, U.S. ENVIRONMENTAL PROTECTION AGENCY, U.S. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION. (Kolsky, Joshua) (Entered: 06/26/2018) |
| 08/27/2018 | <u>27</u> | Joint STATUS REPORT by U.S. DEPARTMENT OF COMMERCE, U.S. DEPARTMENT OF ENERGY, U.S. DEPARTMENT OF STATE, U.S. DEPARTMENT OF THE INTERIOR, U.S. ENVIRONMENTAL PROTECTION AGENCY, U.S. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION. (Kolsky, Joshua) (Entered: 08/27/2018) |
| 10/26/2018 | <u>28</u> | Joint STATUS REPORT by U.S. DEPARTMENT OF COMMERCE, U.S. DEPARTMENT OF ENERGY, U.S. DEPARTMENT OF STATE, U.S. DEPARTMENT OF THE INTERIOR, U.S. ENVIRONMENTAL PROTECTION AGENCY, U.S. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION. (Kolsky, Joshua) (Entered: 10/26/2018) |
| 12/21/2018 | <u>29</u> | NOTICE OF SUBSTITUTION OF COUNSEL by Paul Cirino on behalf of All Defendants Substituting for attorney Joshua M. Kolsky (Cirino, Paul) (Entered: 12/21/2018) |
| 12/26/2018 | <u>30</u> | Unopposed MOTION to Stay <i>in Light of Lapse of Appropriations</i> by U.S. DEPARTMENT OF COMMERCE, U.S. DEPARTMENT OF ENERGY, U.S. DEPARTMENT OF STATE, U.S. DEPARTMENT OF THE INTERIOR, U.S. ENVIRONMENTAL PROTECTION AGENCY, U.S. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (Attachments: # <u>1</u> Text of Proposed Order)(Cirino, Paul) (Entered: 12/26/2018) |